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14 UNITED STATES DISTRICT COURT
15 DISTRICT OF NEVADA

16 EGG AND I, LLC, a Nevada limited liability
17 company; EGG WORKS, LLC, a Nevada limited
18 liability company; EGG WORKS 2, LLC, a Nevada
19 limited liability company; EGG WORKS 3, LLC, a
20 Nevada limited liability company; EGG WORKS 4,
21 LLC, a Nevada limited liability company; EGG
WORKS 5, LLC, a Nevada limited liability
company; EGG WORKS 6, LLC, a Nevada limited
liability company; and EW COMMISSARY, LLC, a
Nevada limited liability company,

22 Plaintiffs,

23 v.

24 U.S. SPECIALTY INSURANCE COMPANY, a
25 Texas corporation; PROFESSIONAL INDEMNITY
AGENCY, INC. dba TOKIO MARINE, HCC-
26 SPECIALTY GROUP, a New Jersey corporation,

27 Defendants.
28

Case No.: 2:20-cv-00747-KJD-DJA

**STIPULATION AND ORDER TO
STAY DISCOVERY**

STIPULATION AND ORDER TO STAY DISCOVERY

Plaintiffs Egg and I, LLC *et al.* (collectively as “Plaintiffs”), by and through their attorneys of record, the law firms of Arias Sanguinetti Wang & Torrijos, LLP and Brayton Purcell, LLP, and Defendants U.S. Specialty Insurance Company (“USSIC”) and Professional Indemnity Agency, Inc. dba Tokio Marine, HCC-Specialty Group (“PIA,” collectively with “USSIC” as “Defendants”), by and through their attorneys of record, the law firm of Gordon Rees Scully Mansukhani, LLP, and hereby stipulate to stay discovery in the above-referenced action. In support of this request, the Parties submit the following for the Court’s consideration:

A. Relevant Factual Allegations and Procedural History

1. Plaintiffs are a group of restaurants in Clark County, Nevada. ECF No. 1 at ¶ 1. USSIC insured Plaintiffs under a Restaurant Recovery Insurance Policy, policy no. U719-860374, in force from September 1, 2019 through September 1, 2020 (the “Policy”). *Id.* at ¶ 3; ECF No. 1-3 (the Policy as attached to Complaint). Between March and April 2020, the Governor of Nevada issued Declaration of Emergency Directive 003 and guidance in response to the health crisis caused by COVID-19 (collectively as “Directives”). ECF No. 1 at ¶¶ 6-10. To comply with the Directives, Plaintiffs suspended business operations at their restaurants, causing Plaintiffs to suffer losses. *Id.* at ¶ 11. Plaintiffs claim that Defendants refused to pay for the losses and expenses under the Policy. *Id.* at ¶¶ 12-13. Defendants claim that there is no coverage under the Policy for the claimed losses and expenses.

2. On April 24, 2020, Plaintiffs filed their Complaint on behalf of themselves and a putative class of persons and entities whose claims for losses under a Restaurant Recovery Policy were denied by Defendants. *Id.* at ¶ 46.

3. On May 26, 2020, Defendants filed their Motion to Dismiss. ECF No. 24.

4. On June 30, 2020, Plaintiffs filed their Response to the Motion to Dismiss. ECF No. 33.

5. Defendants’ Reply brief is currently due on July 28, 2020. ECF No. 32.

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1 **B. Stay of Discovery**

2 6. The Parties both request a stay of discovery pending resolution of the Motion to
3 Dismiss.

4 7. Federal district courts have “wide discretion in controlling discovery.” *Little v.*
5 *City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). In exercising this discretion, a district court
6 may stay discovery based on the filing of a motion that is “potentially dispositive of the entire
7 case.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011); *see Turner*
8 *Broadcasting Sys. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997) (holding that
9 “[w]hether to grant a stay is within the discretion of the Court...”); *Ortega v. Harmony Homes,*
10 *Inc.*, No. 2:15-cv-00794-MMD-VCF, 2015 U.S. Dist. LEXIS 110352, *6 (D. Nev. Aug. 19,
11 2015) (granting motion to stay general discovery when motion was potentially dispositive and
12 foreseeable discovery costs were substantial).

13 8. “In evaluating the propriety of an order staying or limiting discovery while a
14 dispositive motion is pending, the court considers the goal of Federal Rule of Civil Procedure 1,
15 which provides that the Rules shall be construed and administered to secure the just, speedy, and
16 ‘inexpensive determination of every action.’” *Carter v. Rent-A-Center, Inc.*, 2:15-cv-00178-
17 GMN-CWH (D. Nev. May 18, 2015) (granting parties’ stipulation to stay discovery pending
18 resolution of defendant’s motion to dismiss class action complaint). To that end, the Court also
19 “takes a ‘preliminary peek’ at the merits of the dispositive motion.” *Id.* (citing *Tradebay, LLC*,
20 278 F.R.D. at 603).

21 9. The Parties recognize that discovery in this putative class action will be
22 substantial, costly, and time-consuming. In this case there are eight named Plaintiffs and an
23 unknown amount of putative class members. Discovery related to the named Plaintiffs alone is
24 expected to require substantial attorney time and cost. Typically, class discovery can increase
25 the discovery time and costs.

26 10. Additionally, requiring discovery to proceed while a potentially dispositive
27 motion is pending increases the burden on the Court system and its scarce resources.
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11. Federal Rule of Civil Procedure 1 strongly supports granting a stay of discovery to preserve the resources of the parties and the Court. “The stay furthers the goal of efficiency for the court and litigants.” *Little*, 863 F.2d at 685.

12. In the event the Court grants this Stipulation, the Parties will hold a Federal Rule of Procedure 26(f) conference and submit a proposed discovery plan and scheduling order within forty-five (45) days after the Order on the Motion to Dismiss is entered.

Dated this 14th day of July, 2020.

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ORDER

IT IS SO ORDERED.

DATED: July 17, 2020


UNITED STATES MAGISTRATE JUDGE